

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CAS MEDICAL SYSTEMS, INC.,

Plaintiff,

v.

**Civil Action 2:15-cv-2847
Judge Algenon L. Marbley
Magistrate Judge Elizabeth P. Deavers**

**MEDICAL MANUFACTURERS
MARKETING, LLC d/b/a ONE POINT
MEDICAL,**

Defendant.

REPORT AND RECOMMENDATION

This matter is before the Court for consideration of Plaintiff's Amended Petition to Confirm Arbitration Award. (ECF No. 14.) Plaintiff filed its Petition to Confirm Arbitration Award on September 21, 2015 and its Motion to Amend Petition to Confirm Arbitration Award on November 13, 2015. (ECF Nos. 4 & 11.) On November 17, 2015 the Court granted Plaintiff's Motion to Amend and ordered Defendant to show cause why Plaintiff's Amended Petition to Confirm Arbitration Award should not be granted. (ECF Nos. 12 & 13.) To date, Defendant has not responded to the Court's Order.

As a preliminary matter, Receiver Chris Davis' Notice of Stay, is inoperative in this matter. (ECF No. 15.) An order of the Licking County Court of Common Pleas appointing a receiver and staying claims against Defendant does not bind this Court in the exercise of its federal jurisdiction. A state court lacks the power to enjoin a federal court action. *Baker v. General Motors Corp.*, 522 U.S. 222, 236 n. 9 (1998) ("This court has held it impermissible for a

state court to enjoin a party from proceeding in a federal court.”). Receiver Chris Davis’ Notice of Stay, therefore, has no effect in this federal action.

For good cause shown, it is **RECOMMENDED** that Plaintiff’s Amended Petition to Confirm Arbitration Award be **GRANTED**. (ECF No. 14.) Furthermore, it is **RECOMMENDED** that the arbitration award in the matter captioned *In the Matter of the Arbitration between CAS Medical Systems, Inc. And Medical Manufacturers Marketing, LLC d/b/a One Point Medical.*, AAA Case No. 01 15 0003 2127 be **CONFIRMED**. (ECF No. 4-3.)

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat’l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d

981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted))

The Clerk is **DIRECTED** to send a copy of this Order to Michael O’Neil, President, Medical Manufacturers Marketing, LLC d/b/a One Point Medical, 4359 Cristland Hill Road, Hebron, Ohio 43025. The Clerk is further **DIRECTED** to send a copy of this Order to Richard T. Ricketts, Esq., Ricketts Co., LPA, 50 Hill Road South, Pickerington, Ohio 43147.

Date: January 6, 2016

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE